

Law Office of Nora J. Chorover

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January 25, 2017

BY CERTIFIED MAIL

Scott Sweet, President and Registered Agent
Sweet Metal Finishing, Inc.
28 John Williams Street
Attleboro, MA 02703
Certified Mail #: 7014 3490 0000 7429 9906

RECEIVED

JAN 30 2017

OFFICE OF THE REGIONAL ADMINISTRATOR

Re: 60-Day Notice of Violations and Intent to File Suit Regarding Noncompliance
with Federal Clean Water Act's Pretreatment Program: 28 John Williams Street,
Attleboro, Massachusetts.

Dear Mr. Sweet,

This office represents Clean Water Action, a national non-profit citizens' organization working for prevention of pollution in the nation's waters. Clean Water Action has over one million members nationally, more than 30,000 of whom reside in Massachusetts.

We write to give notice that Clean Water Action intends to file a civil action in the United States District Court for the District of Massachusetts under section 505 of the Federal Clean Water Act (the "Act") against Sweet Metal Finishing, Inc. ("Sweet Metal"). The subject of the action will be Sweet Metal's failure to report discharge data for industrial wastewater from its Jewelry Plating facility at 28 John Williams Street, Attleboro (the "Facility"). Industrial wastewater from the Facility is discharged into the Attleboro's Publicly Owned Treatment Works ("POTW"). The POTW discharges into the Ten Mile River. In accordance with its Pretreatment Permit, Sweet Metal must report to the POTW its monthly data for the pH and temperature of its discharge on a quarterly basis.

Sweet Metal has failed to monitor and report its compliance with the Pretreatment Permit limits for pH and temperature from January 2015 through September 2016, the last date for which Clean Water Action has the company's Discharge Monitoring Reports. Clean Water Action reserves its right to include, as violations in the Complaint, pH and temperature monitoring and reporting violations that occurred during the last five years. The company's repetitive failure to monitor and report on these important parameters violates the Clean Water Act.

BACKGROUND

The Clean Water Act prohibits the discharge of pollutants unless in compliance with the Act. Discharges into a POTW must be in compliance with any applicable pretreatment standards and any pretreatment permit issued by the POTW. *See* Sections 505(f) and 402(a)(1) of the Act; 33 U.S.C. §§ 1365(f), 1342(a)(1). Monitoring and reporting of pollutant parameters are enforceable permit conditions. *See* Sweet Metal Pretreatment Permit 002 pgs. 4, 6. These limits are appropriately incorporated into the Pretreatment Permit pursuant to section 308(a) of the Act, 33 U.S.C. § 1318(a). Compliance with Pretreatment Permit conditions is essential to maintaining the integrity of the POTW's operations and to protect the quality of the POTW's receiving water.

The City of Attleboro has established a monthly reporting requirement for pH and temperature. Excessively high or low pH levels and excessively high amounts of heat within the wastewater treatment facility may interfere with the system's ability to break down organic material and may disrupt the functioning of the treatment facility as a whole.

Clean Water Action will ask the Court to ensure Sweet Metal's future compliance with the Act, assess civil penalties in an appropriate amount,¹ award plaintiff its litigation costs, including attorney and expert fees, and award any other relief the Court deems appropriate. Clean Water Action's complaint will be filed a minimum of 60 days after the postmark date of this letter. This is a formal 60-day notice of intent to sue that is being served pursuant to 40 C.F.R., Part 135.

This notice is being provided by:

Cindy Luppi, New England Regional Co-Director
Clean Water Action
88 Broad Street
Boston, MA 02110
(617) 338-8131
(617) 335-6449 (fax)

Counsel for Clean Water Action in this case is:
Nora J. Chorover
Law Office of Nora J. Chorover
11 Green Street
Boston, MA 02130
617-477-3550

¹ The Statute authorizes the Court to assess a penalty of *up* to \$37,500 a day for each violation. *See* 33 U.S.C. § 1319(d) and 78 Fed. Reg. 66647 (Nov. 6, 2013).

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SWEET METAL'S VIOLATIONS AND DATES OF VIOLATIONS

Sweet Metal's violations are described below and are also set forth on a Table attached as Exhibit A hereto. The Complaint, when filed, will set forth additional days of violations that occur between the date of this letter and the date on which the Complaint is filed.

Failure to Comply with the Attleboro Wastewater Department's Monitoring and Reporting Requirements for Temperature and pH

The Clean Water Act and Sweet Metal's Pretreatment Permit require Sweet Metal to comply with monitoring and reporting requirements for temperature and pH. In accordance with Sweet Metal's Pretreatment Permit, the company is required to monitor its pH and temperature continuously and report compliance with a daily temperature max of 100° F and a pH range of 5.5-9.5 s.u. The company has failed to do so.

CONCLUSION

Clean Water Action believes this Notice of Violations and Intent to File Suit sufficiently states the basis for a civil action. During the 60-day notice period, we would be willing to discuss effective remedies for the violations noted in this letter that may avoid the necessity of litigation. If you wish to pursue such discussions, please have your attorney contact us within the next 20 days so that negotiations may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Nora J. Chorover
Attorney for
Clean Water Action

cc: (by certified mail)

Deborah Szaro, Acting Regional Administrator,
EPA New England, Region 1
5 Post Office Square, Ste. 100
Boston, MA 02109
Certified Mail #: 7014 3490 0000 7429 9555

Paul A. Kennedy, Superintendent
Attleboro Municipal Department of Wastewater
City Hall, Government Center
77 Park Street
Attleboro, MA 02703
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Martin Suuburg, Commissioner
Massachusetts Department of
Environmental Protection
1 Winter Street
Boston, MA 02108
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Catherine McCabe, Acting Administrator
US EPA Headquarters, Ariel Rios Building
1200 Pennsylvania Ave., N.W.
Washington, DC 20460
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January 25, 2017

EXHIBIT A
TABLE OF SWEET METAL'S VIOLATIONS
JANUARY 2015² TO THE PRESENT

<u>Collection Month</u>	<u>Temperature (High: 100°F)</u>	<u>pH (Low: 5.5 High 9.5)</u>
January 2015	ND*	ND
February 2015	ND	ND
March 2015	ND	ND
April 2015	ND	ND
May 2015	ND	ND
June 2015	ND	ND
July 2015	ND	ND
September 2015	ND	ND
October 2015	ND	ND
November 2015	ND	ND
December 2015	ND	ND
January 2016	ND	ND
February 2016	ND	ND
March 2016	ND	ND
April 2016	ND	ND
May 2016	ND	ND
June 2016	ND	ND
July 2016	ND	ND
August 2016	ND	ND
September 2016	ND	ND

***ND=No Data Reported**

² CWA reserves its right to allege violations occurring prior to January 2015 if and when it obtains information showing failure to report temperature and pH prior to that date. In addition, CWA reserves its right to add days of violation that may have occurred since January 2015 if and when it obtains information showing that temperature exceedences occurred on additional days.